

## **REMARKS**

### **In the Claims:**

#### **Claim Rejections – 35 USC § 102**

Claims 1, 2, 4-5, and 9 were rejected under 35 U.S.C. 102(e) as being anticipated by Ferguson et al (6,615,648).

#### **Claim Rejections – 35 USC § 103**

Claims 6-8 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ferguson et al (6,615,648) in view of Murphy et al (5,126,654).

Claims 3, 10, and 12 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ferguson et al (6,615,648).

Claim 11 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Ferguson et al (6,615,648) in view of Murphy et al (5,126,654).

The Examiner has cited new art (Ferguson et al.-‘648) that the Applicants did not have an opportunity to comment on before this office action, dated May 21, 2004. As such, the Applicants believe that a Final rejection is unwarranted and improper, and request that the Examiner withdraw the Final rejection. Nevertheless, the Applicants have reviewed the newly cited art and request reconsideration and allowance of the claims as amended for the following reasons.

### **The 102 Rejections**

The present invention is directed to a method for capturing images of ground locations and for detecting the presence of material failure(s) or failures in man-made structures in such ground locations that include the following steps:

(a) providing an image sensor spaced remotely from the ground and which sequentially captures a number of images of various ground locations to provide digital images;

(b) processing captured digital images to determine the presence of a potential material failure in an immobile or inert man-made structure in accordance with predetermined coordinate positions which locate the man-made structures in one or more of the captured digital images; and

(c) indicating to a customer that a potential material failure has been detected in a predetermined coordinate position.

The cited reference of Ferguson et al. doesn't teach using predetermined coordinate positions to control the imaging process as claimed by the Applicants in claim 1, step b. The Applicants claimed invention relies on foreknowledge of coordinate positions for manmade structures such as underground or buried pipelines to control image capture of said buried pipeline. Moreover, Applicants use the predetermined coordinate positions to guide the control and analysis of the imaging data. Subsequent to the image capture the present invention indicates to a customer a detected fault in said pipeline. In stark contrast, the teachings of Ferguson disclose a mere reporting of the location of a fault and does not teach controlling image capture with predetermined coordinate positions. As such, claim 1 is novel because one of Applicants' features is missing in the cited art.

Applicants therefore respectfully request that the Examiner reconsider and withdraw the rejection of the claims under 35 U.S.C. 102(e).

### **The 103 Rejections**

As discussed earlier for the 102(e) rejections, Examiner has failed to make a *prima facie* case, because at least one of Applicants' features is missing in the cited combination of Ferguson in view of Murphy. Moreover, there is no motivation to make the combination of Ferguson in view of Murphy, because Ferguson discloses traveling over well known roads looking for faults in the pavement and therefore has no need to know in advance coordinate positions for the road itself. Specifically, since neither Ferguson nor Murphy discuss the problem of how to find fault in buried pipelines, there would be no motivation in the cited art to modify the teaching of Ferguson in light of Murphy.

On another note, if the teaching of Ferguson were modified in light of Murphy, Applicants' invention would not result, since neither Ferguson nor Murphy teach, show, or suggest using predetermined coordinate positions to aid, control, and analyze captured image data; and said combination without the ability to aid, control, and analyze captured image data, as disclosed by the Ferguson teaching, (i.e., having no foreknowledge of coordinate positions) is

impracticable, because it would require multiple flyovers in the case of buried pipelines.

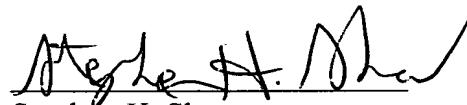
It is believed that claim 6 is unobvious in light of the combination Ferguson in view of Murphy. Claims 7-8 are dependent from claim 6 and are considered to be patentable for at least the same reasons.

Applicants have reviewed the cited art made of record, and believe that singly or in any suitable combination, they do not render Applicants' claimed invention unpatentable. It is believed that the claims in the application are allowable over the cited art and such allowance is respectfully requested.

Should the Examiner consider that additional amendments are necessary to place the application in condition for allowance, the favor is requested of a telephone call to the undersigned counsel for the purpose of discussing such amendments.

The Commissioner is hereby authorized to charge any fees in connection with this communication to Eastman Kodak Company Deposit Account No. 05-0225.

Respectfully submitted,



Stephen H. Shaw  
Attorney for Applicant(s)  
Registration No. 45,404

SHS/RGR  
Rochester, NY 14650  
Telephone: 585-477-7419  
Facsimile: 585-477-4646